

COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND

BILL NO. 76-135Introduced by Council President FreemanLegislative Day No. 76-40 Date: December 21, 1976

AN EMERGENCY ACT to repeal Sections 219(c), (d) and (e) and 504A of the Code of Public Local Laws of Harford County (1965 Edition, as amended), heading, "Central Procurement Office", "Procurement Policy Board", "Penalty for Noncompliance", and "Expenditure Procedure", respectively, and to repeal Article 10, heading, "Department of Procurement", of Chapter 2, heading, "Administration", of the Harford County Code (1975), and to provide that new Article 10, heading, "Procurement", be, and it is hereby added to Chapter 2, heading, "Administration", of the Harford County Code (1975) to stand in lieu of the Article and Sections repealed, to provide for procurement rules and regulations in accordance with Sections 414 and 415 of the Charter of Harford County, Maryland, and further to provide for certain definitions, duties of the Director, a Board of Estimates, duties and powers, and to generally provide for contracting, procurement and purchasing by Harford County, Maryland.

By the Council, December 21, 1976

Introduced, read first time, ordered posted and public hearing scheduled

on: January 18, 1977at: 7:00 P.M.By Order: Angela Markowski, Secretary

PUBLIC HEARING

Having been posted and Notice of time and place of hearing and Title of Bill having been published according to the Charter, a public hearing was held on January 18, 1977 and concluded on January 18, 1977.

Angela Markowski, SecretaryBILL NO. 76-135

1 Section 1. *Be It Enacted By The County Council Of Harford County,*
2 *Maryland,* that Sections 219(c), (d) and (e) and 504A of the Code
3 of Public Local Laws of Harford County (1965 Edition, as amended),
4 heading, "Central Procurement Office", "Procurement Policy Board",
5 "Penalty for Noncompliance", and "Expenditure Procedure", be, and
6 they are hereby repealed, and that Article 10, heading, "Department
7 of Procurement", of Chapter 2, heading, "Administration", of the
8 Harford County Code (1975), be, and it is hereby repealed, and
9 that new Article 10, heading, "Procurement", be, and it is hereby
10 added to Chapter 2, heading, "Administration", of the Harford County
11 Code (1975), to stand in lieu of the Article and Sections repealed,
12 all to read as follows:

13 CHAPTER 2. ADMINISTRATION.

14 ARTICLE 10. PROCUREMENT.

15 Section 2-120. Short Title.

16 (a) This Article shall be known and may be cited as the
17 Procurement Law for Harford County, Maryland.

18 Section 2-121. Applicability.

19 (a) This law shall apply to all agencies of Harford County,
20 Maryland, and may apply to other agencies that receive or disburse
21 County funds to the extent requested by those agencies and as
22 permitted by law.

23 Section 2-122. Definitions.

24 (a) For the purposes of this Article, the following terms,
25 phrases, words and their derivations shall have the meaning given
26 herein. When not inconsistent with the context, words used in the
27 present tense include the future, words in plural number include
28 the singular number and words in the singular number include the
29 plural number. The word "shall" is always mandatory and not
30 merely directory.

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1 (1) Agencies means all offices, departments,
2 institutions, boards, commissions and all other organizational
3 elements of Harford County, Maryland.

4 (2) Awarding Authority means that person or group
5 of persons who have the authority to award contracts on behalf
6 of Harford County, Maryland.

7 (3) Bid Deposit or Bid Bond means a bid guarantee
8 or security accompanying a bid as assurance that the bidder
9 will not withdraw his bid within the period specified therein
10 for acceptance and will execute a written contract and furnish
11 such bonds as may be required.

12 (4) Bidders List means a current file maintained
13 in the Department of Procurement of sources of supply for each
14 category of goods or services the County may expect to purchase.

15 (5) Board of Estimates. The Board of Estimates is
16 composed of the County Executive or his designee, the President
17 of the County Council or another Councilman as his designee, one
18 (1) citizen of Harford County, Maryland, appointed by the County
19 Executive, one (1) citizen of Harford County, Maryland, appointed
20 by the County Council, the Director of the Department of
21 Procurement, the Director of the Department of Public Works and
22 the Treasurer of Harford County. The County Executive shall be
23 the Chairman of the Board and the Director of the Department of
24 Procurement shall act as the Secretary.

25 (6) Capital Improvement Project means any public
26 improvement undertaken by the County, including the construction
27 or reconstruction in whole or in part of any road, bridge, street,
28 building, water or sewer facilities or any other similar physical
29 structure or facility necessary in carrying out the activities of
30 the County Government.

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1 (7) Charter shall mean the Charter of Harford County,
2 Maryland.

3 (8) Consultant or Other Professional Services
4 means the services of architects, engineers, consultants or
5 other firms or persons possessing a high degree of technical
6 skill. The term shall not include physicians' services, and the
7 services of special legal counsel procured pursuant to Section
8 403(c) of the Charter.

9 (9) Contractual Services shall mean and include all
10 telephone, gas, water, electric light and power service; towel and
11 cleaning service; insurance; leases for all grounds, buildings,
12 offices or other space required by the using agencies; and the
13 rental, repair or maintenance of equipment, machinery and other
14 County owned personal property. Except as otherwise provided for
15 in this Chapter, the term shall include all contracts for Capital
16 Improvement Projects. The term shall not include professional
17 and other contractual services which are in their nature unique
18 and not governed by this Article or the Charter.

19 (10) County shall mean Harford County, Maryland.

20 (11) County Council shall mean the duly elected
21 County Council of Harford County, Maryland.

22 (12) County Executive shall mean the duly elected
23 County Executive of Harford County, Maryland.

24 (13) County Procurement Officer shall mean and be
25 the Director of the Department of Procurement.

26 (14) Director shall mean the Director of the
27 Department of Procurement.

28 (15) Local Bidder means a bidder whose principal
29 place of business is physically located in Harford County.

30 (16) Lowest Responsible Bidder shall mean the
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1 lowest bidder as determined in accordance with this Article by
2 Harford County, Maryland.

3 (17) Payment Bond means a bond which is executed
4 in connection with a contract and which secures the payment
5 of all persons supplying labor and material in the prosecution
6 of the work provided for in the contract.

7 (18) Performance Bond means a bond which is
8 executed in connection with a contract and which secures the
9 performance and fulfillment of all the undertakings, covenants,
10 terms, conditions and agreements contained in the contract.

11 (19) Prequalified Bidder means a bidder who has
12 submitted a fully completed contractor's qualification
13 questionnaire and that has been approved by the Director.

14 (20) Supplies shall mean and include all supplies,
15 materials and equipment.

16 (21) Using Agency is any office, department,
17 institution, board, commission or corporation that is a
18 subordinate element of Harford County, Maryland, and all offices,
19 departments, institutions, boards, commissions and corporations
20 which receive or disburse County funds that elect to use the
21 Department of Procurement of Harford County as their purchasing
22 agent.

23 Section 2-123. Procurement Objectives.

24 (a) To conduct all procurement activities in accordance
25 with the laws of Harford County.

26 (b) To minimize the cost of satisfying the County's
27 needs for supplies, equipment, capital improvement projects and
28 services stressing quality and fair competitive relations.

29 (c) To conduct all procurement activities in such
30 a manner as to maintain good business relationships.

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1 (d) To give equal opportunity to all qualified bidders.

2 (e) To have requirements available on schedule, in
3 proper quantity and in accordance with specifications.

4 (f) To avoid the stigma of favoritism to certain
5 contractors in any way in which influential or preferential
6 allocation of business can be indicated or inferred.

7 (g) To maintain open records of firms solicited,
8 prices quoted, prices paid for all supplies, equipment, capital
9 improvement projects and services purchased for the County.
10 Section 2-124. Standards of Conduct.

11 (a) All County personnel engaged in procurement and
12 related activities shall conduct business dealings with
13 contractors in a manner above reproach in every respect. Trans-
14 actions relating to the expenditure of public funds require the
15 highest degree of public trust to protect the interests of the
16 County. The official conduct of County personnel engaged in
17 procurement and related activities must be such that the
18 individual would have no reticence about making a full public
19 disclosure thereof.

20 Section 2-125. The Department of Procurement shall be as
21 established by the Charter of Harford County, Maryland, and as
22 is further implemented by law.

23 Section 2-126. Director of the Department of Procurement.

24 (a) The Department of Procurement shall be administered
25 by the Director of the Department of Procurement. He shall have
26 had a responsible position in procurement or purchasing over a
27 period of at least five (5) years prior to his appointment and
28 shall have demonstrated ability in the management of procurement
29 or purchasing.

30 (b) The Director shall be responsible for:
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1 (1) Providing for the purchasing or contracting
2 for supplies and contractual services including capital projects
3 and consultant services needed by all agencies of Harford County,
4 Maryland, or any other public or quasi-public agency that elects
5 to utilize the services of the Department, in accordance with and
6 in the manner prescribed by the County Council by law.

7 (2) Providing for the purchase, sale or lease of
8 real property by the County in accordance with and in the manner
9 prescribed by the County Council by law.

10 (3) Performing such other duties as may be
11 prescribed by the County Executive or by legislative act of the
12 County Council.

13 (4) Giving an official bond, to be approved by
14 the Department of Law, in the sum of One Hundred Thousand Dollars
15 (\$100,000). The bond shall be paid for by Harford County.

16 (c) Scope of Purchasing Authority. The Director shall
17 have the power and it shall be his duty:

18 (1) Purchase or Contract. To provide for the
19 purchasing or contracting for all supplies and contractual
20 services including capital projects and consultant services
21 needed by any using agency or Harford County, Maryland, in
22 accordance with purchasing procedures as prescribed by this
23 Article and such rules and regulations as the Director shall
24 adopt for the internal management and operation of the Department
25 of Procurement and such other rules and regulations as shall be
26 prescribed by the County Executive.

27 (A) Exceptions. The Director shall not be
28 responsible for providing for the purchasing of books, periodicals,
29 organizational memberships, educational services and seminars; any
30 interest in real property; and except as otherwise provided for
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1 herein, physicians' services; special legal counsel and other
2 professional services customarily negotiated.

3 (B) Unauthorized Purchases. Except as
4 herein provided, it shall be unlawful for any County employee or
5 officer to order the purchase of any supplies or make any contract
6 within the purview of this Chapter other than through the
7 procedures provided for in this Article and any purchase ordered
8 or contract made contrary to the provisions hereof shall not be
9 approved by the County and the County shall not be bound thereby.

10 (d) Other Powers and Duties. In addition to the
11 purchasing authority conferred in Subsection (c) above and in
12 addition to any other powers and duties conferred by law, the
13 Director shall:

14 (1) Minimum Expenditure. Act to procure for the
15 County the highest quality in supplies and contractual services
16 at the least expense to the County.

17 (2) Encourage Competition. Discourage uniform
18 bidding and endeavor to obtain as full and open competition as
19 possible on all purchases and sales.

20 (3) Rules and Regulations. Establish and amend
21 when necessary, all rules and regulations authorized by this
22 Chapter and any other necessary to its operation, in accordance
23 with the Charter.

24 (4) Purchasing Analysis. Keep informed of current
25 developments in the field of purchasing, prices, market conditions
26 and new products, and secure for the County the benefits of
27 research done in the field of purchasing by other governmental
28 jurisdictions, national technical societies, trade associations
29 having national recognition, and by private businesses and
30 organizations.

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1 (5) Forms. Prescribe and maintain such forms as
2 he shall find reasonably necessary to the operation of this
3 Article.

4 (6) Standard Nomenclature. For standardized items,
5 prepare and adopt a standard purchasing nomenclature for using
6 agencies and suppliers.

7 (7) Vendors' Catalog File. Prepare, adopt and
8 maintain a vendors' catalog file. Said catalog shall be filed
9 according to materials and shall contain descriptions of vendors'
10 commodities, prices and discounts.

11 (8) Bulk Purchases. Exploit the possibilities of
12 buying "in bulk" so as to take full advantage of discounts.

13 (9) Federal Tax Exemptions. Act so as to procure
14 for the County all Federal tax exemptions to which it is entitled.

15 (10) Cooperation with Department of Treasury.
16 Cooperate with the Department of the Treasury so as to secure for
17 the County the maximum efficiency in budgeting and accounting.

18 (11) Disqualification of Bidders. Have the authority
19 to recommend to the Board of Estimates for disqualification the
20 names of vendors who default on their quotations and to recommend
21 that they be disqualified from receiving any business from the
22 County for a stated period of time. Upon disqualifying a vendor
23 or bidder, the Director shall notify the vendor or bidder in
24 writing, and shall state the reasons for such disqualification.

25 (12) Maintain Records. Maintain complete and
26 accurate records of all purchases and contracts hereinafter made
27 by or for all using agencies and Harford County, Maryland.

28 (13) Vending Machine Contracts. Provide for the
29 letting of contracts for the installation and maintenance of
30 vending machines on County property.

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1 (14) Inventory List. Require the compiling and
2 maintenance of listing of all personal property and equipment
3 owned and operated by the using agencies and that these lists be
4 filed with the Director and updated periodically.

5 (15) Such other duties as may be provided from
6 time to time by directive of the County Executive or by
7 legislative act of the Council not inconsistent with the Charter
8 and other applicable laws.

9 Section 2-127. Procurement Assistance.

10 (a) The Director of the Department of Procurement shall
11 have the authority to call upon any agency to furnish information
12 or otherwise assist in the performance of purchasing functions
13 and it shall be the duty of any such agency to furnish any such
14 information or assistance as shall be within the agency's scope.

15 Section 2-128. Consolidated Requirements.

16 (a) Using agencies shall advise the Director of the
17 Department of Procurement in advance as to their requirements in
18 order to secure quantity prices and discounts by consolidating
19 requirements and bulk buying whenever practicable.

20 Section 2-129. Cooperative Purchasing.

21 (a) When considered in the interests of the County, the
22 Director of Procurement, with the approval of the County
23 Executive, may undertake programs involving joint or cooperative
24 purchase with other public jurisdictions within the state or
25 with the State of Maryland.

26 Section 2-130. Standardization and Specification.

27 (a) The Director of Procurement shall prepare and secure
28 with the cooperation of the using agencies standard and written
29 specifications, or classifications as appropriate, for supplies
30 used by the various using agencies.

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1 Section 2-131. Requisition and Estimates.

2 (a) All using agencies, either by or with the
3 authorization of the head of the Department under which the using
4 agency operates, shall file with the Director detailed
5 requisitions or estimates of their requirements in supplies and
6 contractual services in such manner, at such times, and for such
7 future periods as the Director shall prescribe.

8 (1) Unforeseen Requirements. A using agency shall
9 not be prevented from filing, in the same manner, with the Director
10 at any time a requisition or estimate for any supplies and
11 contractual services, the need for which was not foreseen when the
12 detailed estimates were filed.

13 (2) Revisory Power in Director. The Director shall
14 examine each requisition or estimate and shall have the authority
15 to recommend to the using agency revisions as to quantity, quality
16 or estimated cost. Revision as to quality shall not be less than
17 established standards and specifications.

18 Section 2-132. Prohibition of Interest.

19 (a) Any purchase or contract within the purview of this
20 Chapter in which the Director, or any officer or employee of the
21 County is financially interested, directly or indirectly, shall
22 be void, except that before the execution of a purchase order or
23 contract the Council shall have the authority to waive compliance
24 with this Section when it finds such action to be in the best
25 interests of the County.

26 (b) Gifts and Rebates. The Director and every officer
27 and employee of the County are expressly prohibited from
28 accepting, directly or indirectly, from any person, company,
29 firm or corporation to which any purchase order or contract is,
30 or might be awarded, any rebate, gift, money or anything of
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1 value whatsoever, except where given for the use and benefit
2 of the County. (See also Section 803 of the Charter and the
3 Code of Ethics.)

4 Section 2-133. Competitive Bidding Required.

5 (a) Except as otherwise provided herein, all purchases
6 of, and contracts for, supplies and contractual services, and all
7 sales of personal property which has become obsolete and unusable
8 in an amount of Three Thousand Dollars (\$3,000) or more shall be
9 based on competitive bids. Trade-in of equipment and supplies
10 may be a part of a purchase.

11 Section 2-134. Purchase Orders and Contracts.

12 (a) All purchases made by the County, except from
13 petty cash and emergency purchases, shall be made by issuance of
14 a properly executed purchase order or by a duly executed contract.

15 Section 2-135. Purchase Descriptions and Specifications.

16 (a) Purchase descriptions, specifications, plans and
17 drawings shall state only the actual minimum needs of the County
18 and describe the required supplies, services, equipment or capital
19 improvement projects in a manner which will encourage maximum
20 competition. Purchase descriptions and specifications shall
21 set forth the essential physical and functional characteristics
22 of supplies, services, equipment or capital improvement projects
23 to be purchased. As many characteristics as are necessary to
24 express the minimum requirements of the County should be utilized
25 in preparing purchase descriptions, specifications, plans and
26 drawings such as (1) common nomenclature; (2) kind of material,
27 i.e., type, grade, etc.; (3) electrical data; (4) dimensions,
28 size or capacity; (5) principles of operation; (6) restrictive
29 environmental conditions; (7) intended use; (8) equipment with
30 which the item is to be used; (9) method of testing, inspection
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1 and acceptance; and (10) other pertinent information that further
2 describes the supplies, services, equipment or capital improvement
3 project. Purchase descriptions and specifications shall not be
4 written so as to specify a product or a particular feature of a
5 product peculiar to one (1) manufacturer, and thereby preclude
6 consideration of a product manufactured by another company, unless
7 it is determined that the particular feature is essential to the
8 County's requirements and that similar products of other
9 manufacturers lacking the particular feature would not meet
10 minimum requirements. Generally, the minimum acceptable
11 purchase description shall be the identification of a requirement
12 by use of a brand name followed by the words, Or Equal. Standard
13 specifications shall be utilized to the maximum extent possible
14 for repetitive requirements of supplies, services, equipment or
15 capital improvement projects common to the needs of more than one
16 (1) agency.

17 Section 2-136. Budget Limitations and Allotments.

18 (a) No purchase of supplies, services, equipment or
19 capital improvement projects shall be made for any agency of the
20 County in excess of available unencumbered appropriations or
21 allotments applicable thereto. Except for purchases in an amount
22 of not more than Fifty Dollars (\$50), and emergency purchases,
23 no purchase order or contract shall be executed or payment made
24 out of County funds for purchase of supplies, services, equipment
25 or capital improvement projects unless the County Treasurer or
26 his designee shall first certify that the funds for the proposed
27 purchase are available. (See also Section 520 of the Charter).

28 Section 2-137. Nondiscrimination in Contracts.

29 (a) No contract shall be awarded to any contractor
30 unless the contract contains provisions obligating the contractor
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1 not to discriminate in any manner against any contractor,
2 employee or applicant for employment because of race, creed, color
3 or national origin and further obligating the contractor to
4 include similar provisions in all subcontracts, except subcontracts
5 for standard commercial supplies, equipment or raw materials.

6 Section 2-138. Foreign Made Products.

7 (a) When bids or quotations are received on supplies
8 or equipment of domestic origin versus foreign origin, - price,
9 quality, service and warranty being relatively equal - the
10 domestic product shall be purchased.

11 Section 2-139. Buy Harford County.

12 (a) Purchasing supplies, equipment, capital improvement
13 projects and architectural-engineering-consultant services from
14 vendors and contractors whose place of business is physically
15 located in Harford County is considered to be in the best interest
16 of the County, and such purchases shall be made from local bidders
17 provided that price, quality and service are equal to that which
18 can be obtained from vendors whose place of business is located
19 outside Harford County.

20 Section 2-140. Rental in Lieu of Purchase.

21 (a) Under certain circumstances, the County's equipment
22 requirements may be more economically filled by rental rather
23 than purchase. The decision to rent rather than purchase shall
24 be made by the Director of Procurement, after consultation with
25 the head of the using agency, on a case-by-case basis, and rental
26 should be used where it would be in the County's best interest.
27 Criteria to be considered in each case shall include (but not be
28 limited to):

29 (1) The County requirement is of short duration,
30 and purchase would be costlier than rental.

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1 (2) The probability that the equipment will
2 become obsolete and that replacement within a short period will be
3 necessary.

4 (3) The equipment is special or technical, and
5 the lessor will provide the equipment as well as maintenance and
6 repair services at a lower cost than would otherwise be
7 available to the County. A lease for a term greater than one (1)
8 year's duration shall not be entered into without the approval
9 of the County Council.

10 Section 2-141. Warranties.

11 (a) Contracts and purchase orders normally involve
12 commercial warranty provisions which are standard or customary
13 in the trade. Warranties other than normal commercial warranties
14 shall be used only when it is found by the Director of Procurement
15 to be in the best interest of the County after considering such
16 factors as:

17 (1) Nature of the item being purchased and its
18 end use.

19 (2) Cost of the warranty.

20 (3) Criticality of meeting specifications.

21 (4) Damages to the County that might be expected
22 to arise in event of a defective performance.

23 (5) Cost of correction or replacement in absence
24 of a warranty.

25 (6) Administrative cost and difficulty of
26 enforcing the warranty.

27 Section 2-142. Liquidated Damages.

28 (a) Liquidated damages provisions may be used in
29 contracts under such circumstances that time of delivery or
30 performance is such an important factor that the County may
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1 reasonably expect to suffer damages if the delivery or performance
2 is delinquent and when the extent or amount of such damages would
3 be difficult or impossible to ascertain or prove. When a
4 liquidated damages clause is used, the contract shall set forth
5 the amount which is to be assessed against the contractor for
6 each day of delay. The rate of assessment of liquidated damages
7 must be considered on a case-by-case basis and reasonably fixed
8 with reference to probable actual damages. Determination to use
9 liquidated damages provisions in a contract and determination as
10 to rate of assessment of liquidated damages shall be made by the
11 County Attorney after consultation with the using agency.

12 Liquidated damages provisions shall be included in all contracts
13 of Twenty-five Thousand Dollars (\$25,000) or more for capital
14 improvement projects.

15 Section 2-143. Bid Informalities and Irregularities.

16 (a) The contract awarding authority, with the approval
17 of the County Attorney, may waive informalities and irregularities
18 in bids submitted if such irregularities do not violate any
19 applicable provisions of any rules and regulations or law if such
20 action is considered to be in the best interest of the County.

21 Section 2-144. Board of Estimates, Powers, Duties.

22 (a) The Board of Estimates shall have the responsibility
23 for the awarding of all contracts awarded under the procedures of
24 Section 2-145 that are in an amount of Twenty-five Thousand
25 Dollars (\$25,000) or more; and shall award all contracts that
26 are awarded under Section 2-147 that are in an amount of Two
27 Thousand Five Hundred Dollars (\$2,500) or more; and shall also
28 approve all purchases, sales or leases of real property. All
29 other contracts shall be awarded by the County Executive or the
30 Director when such authority is delegated to him by the County
31 Executive in writing.

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1 Section 2-145. Formal Contract Procedure.

2 (a) All supplies and contractual services, except as
3 otherwise provided herein, when the estimated cost thereof shall
4 exceed Three Thousand Dollars (\$3,000), shall be purchased by
5 formal, written contract from the lowest responsible bidder,
6 after due notice inviting bids. All sales of personal property
7 which has become obsolete and unusable, when the estimated value
8 shall exceed Three Thousand Dollars (\$3,000), shall be sold by
9 formal written contract to the highest responsible bidder after
10 due notice inviting bids.

11 (b) Notice Inviting Bids:

12 (1) Newspaper. Notice inviting bids shall be
13 published at least once in at least one (1) newspaper in the
14 County and at least ten (10) days preceding the last day set for
15 the receipt of bids.

16 (A) Scope of Notice. The newspaper notice
17 required herein shall include a general description of the
18 articles to be purchased or sold, shall state where bid blanks
19 and specifications may be secured, and the time and place for
20 opening bids.

21 (2) Prequalified Bidders' List. The Director
22 shall also solicit sealed bids from a representative number of
23 responsible prospective suppliers who have requested their names
24 to be added to a prequalified bidders' list, which the Director
25 shall maintain, by sending them a copy of such notice as will
26 acquaint them with the proposed purchase or sale. Invitations
27 sent to the vendors on the bidders' list shall be limited to
28 commodities that are similar in character and ordinarily handled
29 by the trade group to which the invitations are sent. Failure
30 to notify prospective suppliers on the vendors' or bidders' list
31 shall not invalidate any bids or contracts.

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1 (3) Bulletin Board. The Director shall also
2 advertise all pending requests for proposals or sales by a notice
3 posted on the public bulletin board in the County Office Building.

4 (c) Bid Deposits. When deemed necessary by the
5 Director, bid deposits shall be prescribed in the public notices
6 inviting bids. Unsuccessful bidders shall be entitled to return
7 of the posted surety where the Director has required such. In
8 addition to any other damage incurred by the County by the
9 successful bidder's refusal to enter into the contract, a
10 successful bidder may be required to forfeit any surety required
11 by the Director upon failure on his part to enter a contract
12 within ten (10) days after notice of the award is sent to him,
13 unless extended by the County.

14 (d) Bid Opening Procedure.

15 (1) Sealed. Bids shall be submitted sealed to the
16 Director and shall be identified as a bid for a specific contract
17 on the envelope.

18 (2) Opening. Bids shall be opened in public at
19 the time and place stated in the public notices.

20 (3) Tabulation. A tabulation of all bids received
21 shall be posted for public inspection.

22 (e) Rejection of Bids. The contract awarding authority
23 shall have the authority to reject all bids, parts of all bids or
24 all bids for any one (1) or more supplies or contractual services
25 included in the proposed contract, when the public interest will
26 be served thereby.

27 (1) Bidders in Default to County. The awarding
28 authority shall not award a contract to a contractor who is in
29 default on the payment of taxes, licenses or other monies due the
30 County, regardless of whether or not the contractor would otherwise
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1 qualify as the lowest responsible bidder. Upon determining that
2 a contract is in default to the County, the Director shall notify
3 the contractor in writing, and shall state the reasons for such
4 default. A bidder is not in default to the County if he is
5 disputing the alleged monies due by appropriate administrative
6 or judicial proceedings.

7 (f) Award of Contract.

8 (1) Authority in Director. The Director shall
9 have such authority to award and execute contracts as shall be
10 delegated to him in writing by the County Executive.

11 (2) Lowest Responsible Bidder. Contracts shall be
12 awarded to the lowest responsible bidder. In determining "lowest
13 responsible bidder", in addition to price, the awarding authority
14 may consider:

15 (A) The ability, capacity and skill of the
16 bidder to perform the contract or provide the service required.

17 (B) Whether the bidder can perform the
18 contract or provide the service promptly, or within the time
19 specified, without delay or interference.

20 (C) The character, integrity, reputation,
21 judgment, experience and efficiency of the bidder.

22 (D) The quality of performance of previous
23 contracts or services to the County or other owners.

24 (E) The previous and existing compliance
25 by the bidder with laws and ordinances relating to the contract
26 or service.

27 (F) The sufficiency of the financial
28 resources and ability of the bidder to perform the contract or
29 provide the service.

30 (G) The quality, availability and
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1 adaptability of the supplies or contractual services to the
2 particular use required.

3 (H) The ability of the bidder to provide
4 future maintenance and service for the use of the subject of the
5 contract.

6 (3) Award to Other Than Low Bidder. When the
7 award is not given to the monetarily lowest bidder, a full and
8 complete statement of the reasons for placing the order elsewhere
9 shall be prepared by the Director and filed with the other papers
10 relating to the transaction.

11 (4) Tie Bids.

12 (A) Local Vendors. If all bids received are
13 for the same total amount or unit price, quality and service being
14 equal, the contract shall be awarded to a local bidder, if the
15 tie bidders otherwise equally qualify as lowest responsible
16 bidders.

17 (B) Outside Vendors. Where subsection (A)
18 is not in effect, the County shall award the contract to one (1)
19 of the tie bidders by drawing lots in public, if the tie bidders
20 otherwise equally qualify as lowest responsible bidders.

21 (5) No Bids. If no bids are received where
22 competitive bidding is required by this law, the Director is
23 authorized to proceed under Section 2-146 and/or Section 2-149,
24 whichever is more appropriate.

25 (6) Performance; Payment and Maintenance
26 Bonds. The Director shall have the authority to require
27 performance and/or payment bonds, before a contract is entered
28 into, in such amount as he shall find reasonably necessary to
29 protect the best interests of the County. The Director of
30 Public Works may require maintenance bonds for capital improvement
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1 projects in an amount and for a duration of time he may deem
2 appropriate.

3 (7) The Director shall notify all persons who
4 submitted bids and were not awarded the contract that their bid
5 was not accepted.

6 (g) Capital Improvement Projects.

7 (1) Plans and Specifications. When a capital
8 improvement project is to be performed by contract, the Director
9 of Public Works shall prepare or cause to be prepared necessary
10 plans, specifications and cost estimate for submission to the
11 Director of Procurement.

12 (2) Invitation to Bid and Public Announcement.
13 Upon receipt of a properly approved capital improvement project,
14 including plans, specifications and cost estimates, the Director
15 shall prepare bid forms, issue invitations to bid and make
16 public announcements as prescribed in this Article for formal
17 competitive bidding or professional or other consultant services.

18 (3) Contractor Selection. After evaluation of
19 bids and determination as to the lowest responsible bidder, a
20 contract award notification letter shall be sent by the Director
21 of Procurement to the lowest responsible bidder along with
22 contractual documents for execution by the lowest responsible
23 bidder.

24 (4) Contract Execution. Unless extended by the
25 County, the successful bidder must, within ten (10) days after
26 receipt of contract award notification letter and contractual
27 documents, sign and return the contract along with required
28 performance and payment bonds and other pertinent documents to
29 the Director of Procurement. Upon return of the documents to
30 the County, the contract shall be executed by the County Executive
31 or his designee.
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1 (5) Notice to Proceed. After the contract has
2 been fully executed, the Director of Procurement shall provide the
3 contractor and the Director of Public Works with a copy of the
4 completed contract and after consultation with the Director of
5 Public Works and the Treasurer issue a "Notice to Proceed" to
6 the contractor.

7 (6) Contract Administration, Construction Control
8 and Supervision. The Director shall be responsible for the
9 supervision of the administration of the contract and the Director
10 of Public Works shall be responsible for the supervision of the
11 execution and performance of all contracts for capital projects
12 constructed for Harford County, Maryland, and as agreed upon by
13 and for other using agencies.

14 (h) Prohibition Against Subdivision. No contract or
15 purchase shall be subdivided to avoid the requirements of this
16 Chapter.

17 Section 2-146. Open Market Procedure.

18 (a) All purchases of supplies, contractual services and
19 all sales of personal property which has become obsolete and
20 unusable of less than the estimated value of Three Thousand
21 Dollars (\$3,000) shall be made in the open market, without
22 newspaper advertisement and without observing the procedure
23 prescribed in Section 2-145 for the award of formal contracts
24 and Section 2-147 for the award of contracts for consultant and
25 other professional services.

26 (b) Minimum Number of Solicitations. All open market
27 purchases shall, wherever possible, be based on at least three
28 (3) competitive price quotations, and shall be awarded to the
29 lowest responsible bidder in accordance with the standards set
30 for in Section 2-145 above.

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1 (c) Notice Inviting Bids. The Director shall solicit
2 price quotations by: (1) Direct mail request to prospective
3 vendors, and/or (2) By telephone, or (3) The solicitation of
4 price quotations should be from as many suppliers as are required
5 to obtain a reasonably complete sampling of the market. The list
6 of potential suppliers should be rotated, always including the
7 current source, so that over a period of time each will be
8 contacted. The solicitation should cover a spread of multiple
9 quantities sufficient to indicate the price breaks or discounts
10 for quantity purchases and possible transportation economics.

11 (d) Recording. The Director shall keep a record of all
12 open market orders and the price quotations submitted in
13 competition thereon and such records shall also be open to public
14 inspection.

15 Section 2-147. Consultant and Other Professional Services.

16 (a) General. Procurement of consultant and other
17 professional services, except for the employment of special legal
18 counsel pursuant to Section 403(c) of the Charter and physicians'
19 services, shall be through negotiation on the basis of qualifica-
20 tion and competence of the prospective consultant, the technical
21 proposal as to the proposed work and the price to the County. The
22 procurement of consultant or other professional services by the
23 County shall be by written contract. The contract shall contain
24 among other things:

25 (1) A complete description of the services to be
26 performed.

27 (2) Time period over which services are to be
28 performed and completion date.

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1 (3) Total price to be paid for such services.

2 (4) A clause permitting audits of the records of
3 the contractor as they pertain to specific items of the contract
4 with the County. Reimbursable expenses, if any, shall be clearly
5 defined in the contract as to limitations and allowability thereof
6 and shall be expressed in terms of ceilings. Per diem rates, if
7 any, shall include "not to exceed" limits. No consultant or
8 other professional services shall be contracted for on a time or
9 hourly basis unless there shall be established in the contract a
10 ceiling price for the total services to be rendered with the
11 contractor assuming the obligation for completion of all required
12 services at a price not to exceed the ceiling price. Further,
13 contracts for consultants and other professional services shall
14 contain provisions requiring approval of the Director of the
15 Department or using agency that is responsible for the administra-
16 tion of the contract of all proposed subcontracts, consultants or
17 associates.

18 (b) Qualification Questionnaire. The Director of
19 Procurement, not less than quarterly, by public advertising, will
20 require that all firms interested in providing professional
21 consultant services for Harford County, submit a statement of
22 their area of interest together with a questionnaire similar to
23 the U. S. Government's Standard Form 251 and any other data
24 pertinent to the description of capabilities of their firm.
25 These submissions will be under the supervision of the Director,
26 maintained, reviewed and monitored by the Director of the
27 Department of Public Works or cognizant Department head or using
28 agency. All statements and other data will be updated annually.
29 Insofar as possible, the Director shall list in the advertisement
30 the forthcoming projects and contracts.

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1 (c) Negotiation Procedures. As services for projects
2 are required, the Director shall appoint a negotiation committee
3 (Committee) of not less than three (3) members, one (1) of which
4 shall be the cognizant using agency head or his designee and two
5 (2) others at the choice of the Director.

6 (1) The Committee shall, first, prepare a report
7 indicating the project description, scope of services being
8 sought, funding data, estimated construction costs and, finally,
9 a list of consultants deemed eligible. The list shall include
10 a representative number of qualified firms whose principal place
11 of business is located in the County and will include a total of
12 at least three (3) firms. The number will depend only upon
13 apparent qualifications and shall be listed in order of preference.
14 The list will be the result of reviewing all applicable qualifica-
15 tion questionnaires. The report shall state, insofar as possible,
16 the reasons for the proposed order of preference.

17 (2) The report will be submitted to the Director
18 for review and comment. If the Director disagrees with the
19 report, he shall state his reasons for the disagreement and make
20 recommendations to the Committee. If the Director disagrees
21 with the report, the Committee shall consider his reasons and
22 recommendations, confirm or modify their report and proceed with
23 negotiations.

24 (3) The Committee will negotiate technical and
25 price proposals with at least the three (3) most preferred firms
26 of those firms listed in the finalized order of preference. The
27 Committee shall compare the proposals with their finalized report
28 as a basis for negotiations. The Committee shall negotiate with
29 the selected firms without considering the order in which they
30 were listed in the Committee's initial report to the Director.

31 (4) After negotiations are completed, the
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1 Committee shall forward their results to the Director for submission
2 to the Board of Estimates for selection and awarding of the
3 contract.

4 (d) Public Announcement of Contract Award. The
5 selection of a consultant and award of all contracts for consulting
6 and other professional services shall be made public by posting
7 on a bulletin board in the County Office Building available to
8 the public information such as:

9 (1) Description or general nature of the services
10 contracted for.

11 (2) Performance period covered by the contract.

12 (3) Name and address of the firm or person to whom
13 the contract was awarded.

14 (4) Total dollar amount of the contract.

15 Section 2-148. Emergency Purchases.

16 (a) By Director. In case of an emergency which
17 requires immediate purchase of supplies or contractual services,
18 the Director is authorized to secure at the lowest obtainable
19 price by open market procedure as herein set forth or from a single
20 source, any supplies or contractual services regardless of the
21 amount of the expenditure, when such purchases are necessary to
22 prevent delays in the work of the using agency which may vitally
23 affect the life, health or general welfare of the citizens of
24 Harford County, Maryland.

25 (b) By Head of Department. In case of an emergency,
26 when the Director of Procurement is not available to make the
27 required purchase, the head of any using agency may purchase
28 any supplies or contractual services needed to prevent delays in
29 the work of the using agency which may vitally affect the life,
30 health or general welfare of citizens.

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1 (1) Recorded Explanation. The head of such using
2 agency shall send to the Director a requisition and a copy of the
3 delivery record together with a full written report of the
4 circumstances of the emergency.

5 (2) Emergency Procedure. The Director shall
6 prescribe by rules and regulations the procedure under which
7 emergency purchases by heads of using agencies may be made.
8 Section 2-149. Purchase of Proprietary Items or Services
9 Including Consultant or Other Professional Services from a
10 Single Source.

11 (a) When the County requires supplies, equipment or
12 services including consultant or other professional services
13 which are proprietary with one (1) producer or available from only
14 one (1) source of supply, the Director of Procurement shall appoint
15 a negotiation committee as provided for in Section 2-147 which
16 shall negotiate with that single source and recommend a contract
17 to the awarding authority.

18 Section 2-150. Services Set by Law.

19 (a) Services for which the rate or price is fixed by a
20 public authority authorized by law to fix rates or prices shall be
21 contracted for without competitive bidding.

22 Section 2-151. Blanket Order Agreements.

23 (a) To reduce the administrative workload of the
24 Department of Procurement and expedite purchase of supplies, the
25 Director of Procurement may establish Blanket Order Agreements
26 (charge accounts) with selected suppliers for such commodities
27 as automotive repair parts, stationery and office supplies and
28 other categories of supplies as may be determined by the Director
29 of Procurement. Blanket Order Agreements shall include instructions
30 as to order placement, dollar limitations, billing instructions
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1 and listing of persons authorized to place orders. The Director
2 of Procurement shall authorize individuals assigned to requiring
3 agencies to place orders against Blanket Order Agreements; however,
4 the amount of any single order placed against a Blanket Order
5 Agreement shall not exceed Fifty Dollars (\$50), with the exception
6 of repair items for equipment and plant facilities not exceeding
7 Five Hundred Dollars (\$500). The Director of Procurement shall
8 issue a purchase order at the end of each month covering all
9 orders delivered during the month under each Blanket Order
10 Agreement. The Director of Procurement shall also periodically
11 audit orders placed against Blanket Order Agreements by authorized
12 individuals to assure conformance to good purchasing standards.
13 Section 2-152. Price Agreement Contracts.

14 (a) The Director of Procurement may enter into price
15 agreement contracts for supplies on which there are repetitive
16 requirements over a period of time by one (1) or more requiring
17 agencies. Price agreement contracts shall normally be entered
18 into under the formal contract procedure herein set forth and
19 shall normally be on a yearly basis. Orders for specific supplies
20 covered by price agreement contracts shall be by purchase order
21 issued by the Director of Procurement at prices indicated in the
22 price agreement contract.

23 Section 2-153. Time and Material Contracts.

24 (a) In those instances where it may be impossible to
25 accurately price in advance certain work to be performed, the
26 Director of Procurement shall appoint a negotiation committee as
27 provided in Section 2-147 which shall negotiate a purchase order
28 or contract which shall state the category or categories of labor
29 proposed and hourly rates specifically applicable thereto.
30 Material prices shall be fair and reasonable and in line with
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1 current market prices. Time and material contracts shall not
2 be used unless the Director of Procurement determines that no
3 other type contract would be more suitable and in the best
4 interests of the County for the particular requirement. All
5 time and material contracts shall include a maximum price and
6 shall contain a clause permitting audits of the records of the
7 contractor as they pertain to the contract with the County.

8 Section 2-154. Petty Expenditures Revolving Fund.

9 (a) The County Executive is hereby authorized to
10 recommend an appropriation to a fund which shall be known as
11 the Petty Expenditures Revolving Fund. From this fund shall be
12 paid all purchases not in excess of Fifty Dollars (\$50) each, made
13 by the heads of using agencies for incidentals, with the approval
14 of the Director.

15 (b) Accounting. At the end of each month, the Director
16 shall render to the County Treasurer a statement showing the
17 actual expenditures for each using agency so made out of such
18 Petty Expenditures Revolving Fund, and the County Treasurer shall
19 reimburse said revolving fund for such expenditures in the same
20 manner as other expenditures of such using agencies are paid.

21 (c) Rules and Regulations. The Director shall
22 promulgate rules and regulations for use of the Petty Expenditures
23 Revolving Fund.

24 Section 2-155. Central Warehousing.

25 (a) The Director shall control and supervise storerooms
26 and warehouses and shall administer the Storerooms Revolving Fund.

27 (b) Storerooms Revolving Fund. The County Executive
28 is hereby authorized to recommend an appropriation to a fund which
29 shall be known as the Storerooms Revolving Fund.

30 (1) Accounting Procedure. Requisitions from
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1 supplies in a storeroom or warehouse shall be credited by the
2 Storerooms Revolving Fund by a charge against the appropriation
3 of the using agency.

4 (2) Inventory. The Director shall maintain a
5 perpetual inventory record of all materials, supplies or equipment
6 stored in storerooms and warehouses.

7 Section 2-156. Legal Review.

8 (a) Purchase agreements and all proposed contracts shall
9 be reviewed by the Department of Law for legal sufficiency. It
10 shall be the responsibility of the Department of Law to draft
11 special clauses for contracts such as, but not limited to,
12 liquidated damages, warranties, nondiscrimination and other special
13 provisions to protect the interests of the County.

14 Section 2-157. Inspection and Testing.

15 (a) The Director shall inspect, or supervise the
16 inspection of, all deliveries of supplies or materials to determine
17 their conformance with the specifications set forth in the order
18 or contract.

19 (b) Inspection by Using Agency. The Director shall
20 have the authority to authorize using agencies having the staff
21 and facilities for adequate inspection to inspect all deliveries
22 made and services rendered to such using agencies under rules
23 and regulations which the Director shall prescribe.

24 (c) Tests. The Director shall have the authority
25 to require chemical and physical tests of samples submitted with
26 bids and samples of deliveries which are necessary to determine
27 their quality and conformance with the specifications. In the
28 performance of such tests, the Director shall have the authority
29 to make use of laboratory facilities of any agency of the County
30 Government or of any outside laboratory.

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1 (d) Purchase Orders. Inspection and acceptance of
2 supplies, equipment or services purchased by a purchase order
3 or from petty cash shall be made by qualified personnel of the
4 requiring agency. Unacceptable supplies, equipment or services
5 shall be reported to the Director of Procurement for appropriate
6 corrective action.

7 Section 2-158. Sale or Other Disposition of Surplus Supplies
8 and Equipment.

9 (a) With the approval of the County Executive, the
10 Director shall be responsible for the disposition of surplus,
11 obsolete and scrap supplies and equipment.

12 (b) Equipment shall be disposed of in the following
13 order of priority:

14 (1) Transfer to other County departments or
15 agencies.

16 (2) Outright sale or exchange.

17 (3) Trade-in.

18 (4) Donation to institutions or public service
19 organizations.

20 (5) Scrapping.

21 Note: (2) and (3) above have equal priority, and
22 the preference order shall be determined by the Director of
23 Procurement.

24 (c) Surplus Property Listings. All agencies shall,
25 at the end of each fiscal year quarter, submit to the Director of
26 Procurement a listing of any property which is surplus to their
27 needs. Following receipt of these listings, the Director of
28 Procurement shall consolidate and circularize the surplus items
29 list to all agencies to determine whether inter-agency transfer
30 is appropriate and in the best interest of the County. The
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1 listing shall include a full nomenclature of each item and shall
2 indicate its condition.

3 (d) Disposal Methods. The Director of Procurement,
4 following circularization of the surplus list to agencies and
5 determination that transfer is not appropriate, shall either
6 offer surplus property for sale or exchange for other property
7 of an approximate equivalent value or shall offer the property as
8 trade-in for the purchase of similar property, whichever is
9 determined to be in the best interests of the County. Formal
10 contract procedure shall be utilized for the sale of property.
11 If transfer, sale, exchange or trade-in are determined not to
12 be appropriate, the property may be donated to institutions or
13 public service agencies, if such donation is considered to be
14 appropriate for the institutions or public service agencies.
15 Otherwise, the property shall be scrapped and included in a sale
16 to the public along with other scrap material. Material having
17 no saleable value shall be destroyed by appropriate means,
18 conforming to current ecological procedures.

19 (e) Sales under this Section shall be made to the
20 highest responsible bidder.
21 Section 2-159. Cooperative Purchasing.

22 (a) The Director shall, with the approval of the
23 County Executive, have the authority to join with other units
24 of government in cooperative purchasing plans when the best
25 interests of the County would be served thereby.

26 Section 2-160. Records and Reports.

27 (a) There shall be maintained in the Department of
28 Procurement complete files applicable to all purchases made by
29 the County. Such records shall include, but not be limited to:

30 (1) Purchase requisitions.

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- 1 (2) Purchase Orders.
- 2 (3) Contracts.
- 3 (4) Pre-award and post-award documentation and
- 4 correspondence pertaining to each purchase order and contract.
- 5 (5) General correspondence files.
- 6 (6) Catalog and pricing information files.
- 7 (7) Bidders' lists.
- 8 (8) Qualification questionnaires for consultant
- 9 and other professional services.
- 10 (9) Report files. Records pertaining to purchase
- 11 orders and contracts and pre-award and post-award documentation
- 12 shall be maintained for the current County fiscal year and three (3)
- 13 fiscal years subsequent to the year which the contract is
- 14 completed. These records shall be open to public inspection at
- 15 all times.

16 (b) Emergency Purchases Report. The Director of
 17 Procurement shall submit to the County Executive a monthly report
 18 of all emergency purchases made during the month. Such report
 19 shall include:

- 20 (1) Description of item or service purchased.
- 21 (2) Price.
- 22 (3) Name and address of vendor.
- 23 (4) Necessity for emergency purchase.
- 24 (5) The requiring agency. Emergency purchases
- 25 must be reported to the County Council prior to the next
- 26 legislative session day after the purchase is made.

27 (c) Report of Consultant and Other Professional
 28 Services Contracts. The Director of Procurement shall submit
 29 through the County Executive to the County Council a monthly

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1 report of all contracts for consultant and other professional
2 services awarded during the month. Such report shall include:

- 3 (1) Description or nature of work.
- 4 (2) Contract price.
- 5 (3) Name and address of the contractor.
- 6 (4) Requiring agency.

7 (d) Additional Reports. The Director of Procurement
8 shall submit any additional reports pertaining to the functions
9 and operations of the Department of Procurement as may be
10 directed by the County Executive or the County Council.

11 Section 2-161. Personal Liability.

12 (a) Any officer, agent, or employee of the County, or
13 person, firm or corporation doing business with Harford County
14 who knowingly violates the provisions of this Chapter shall be
15 personally liable for any losses incurred by Harford County.

16 (b) Removal or Discharge for Cause. Any officer or
17 employee who violates the provisions of this Chapter shall be
18 subject to discharge or removal from office for cause or such
19 lesser disciplinary action as may be appropriate in accordance
20 with the personnel laws and regulations of Harford County.

21 Section 2-162. Penalties.

22 (a) Any person, firm or corporation found guilty of
23 violating any of the provisions of this Article shall be deemed
24 guilty of a misdemeanor and upon conviction thereof shall be
25 fined in an amount not exceeding One Thousand Dollars (\$1,000) or
26 be imprisoned in the Harford County Detention Center for a period
27 not exceeding six (6) months, or both so fined and imprisoned.
28 Each day such violation is committed or permitted to continue
29 shall constitute a separate offense and shall be punishable as
30 such hereunder.

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1 Section 2. *And Be It Further Enacted*, that if any provision or
2 provisions of this Act, or the particular application thereof,
3 shall be held to be invalid, the remaining provisions and their
4 application shall not be affected thereby. Should any provision
5 hereof be inconsistent with any rule, regulation or policy of
6 any other agency having jurisdiction, such provision shall be
7 invalid, but the remaining provisions and their application shall
8 not be affected thereby.

9 Section 3. *And Be It Further Enacted*, that all laws and parts of
10 laws in conflict with the provisions of this Act are hereby
11 repealed.

12 Section 4. *And Be It Further Enacted*, that this Act is hereby
13 declared to be an Emergency Act, necessary for the protection of
14 County funds and shall take effect on the date it becomes law.

15 EFFECTIVE: January 24, 1977
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21 The Secretary of the Council does hereby
22 certify that fifteen (15) copies of this bill
23 are immediately available for distribution to
the public and the press.

24 Angela Markowski
25 Secretary *dp*
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LIBER 3 PAGE 312

BY THE COUNCIL

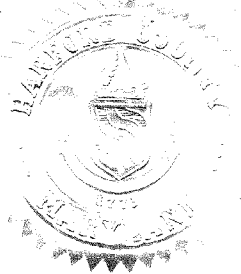
Read the third time.

Passed LSD 77-3 January 18, 1977 ~~(with amendments)~~~~Failed of Passage~~

By order

Angela Markowski, Secretary

Sealed with the County Seal and presented to the County Executive
 for his approval this 19th day of January, 1977
 at 3:00 o'clock P.M.

Angela Markowski, Secretary

BY THE EXECUTIVE

APPROVED:

[Signature]
County ExecutiveDate 1-24-77

BY THE COUNCIL

This Bill, having been approved by the Executive
 and returned to the Council, becomes law on January 24, 1977.

Angela Markowski
Angela Markowski, Council Secretary

EFFECTIVE DATE: January 24, 1977

Co'd for record 2/8/77 at 2:45 P.
 Same day recorded & examined, per
 H. Douglas Chilcoat, Clerk